

HUMAN SERVICES BOARD

INTRODUCTION

DISCUSSION

The petitioner's wife applied for Dr. Dynasaur based on her pregnancy. The Department denied the application in April based on a determination that she did not meet the requirements in the Medicaid regulations regarding U.S. citizenship.

W.A.M. § M170.1(a) of the Medicaid regulations provides:

As a condition of eligibility for Medicaid an individual must be:

- (1) A citizen or national of the United States (M170.2), or
- (2) A qualified alien (M170.3).

It does not appear that the petitioner in this matter maintains that his wife meets either definition. Holders of visas are not included in the definition of "qualified aliens" under § M170.3. The Department concedes that the Medicaid regulations do contain a provision that non-qualified aliens are eligible for the treatment of "emergency medical conditions" under § M170.8(a)(1). The Department also represents that it is attempting to obtain a waiver from the federal government to include medical treatment for pregnancy as an exception to the citizenship requirement. However, inasmuch as the Department's decision is in accord with the pertinent regulations, the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

ORDER

The Department's decision is affirmed.

#